

House Daily Reader

Tuesday, February 21, 2012

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State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0165

SENATE TAXATION ENGROSSED NO. **SB 20** - 1/23/2012

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to allow returns and return information to be disclosed to
2 officers, employees, and legal representatives of the Office of the Attorney General and
3 other state agencies and departments.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-1-28.4 be amended to read as follows:

6 10-1-28.4. Returns and return information may be disclosed to the following:

- 7 (1) The taxpayer who is required to submit the information to the department, or ~~his~~ the
8 taxpayer's designee appointed in writing;
- 9 (2) Other states, in accordance with agreements executed pursuant to § 10-1-13.1;
- 10 (3) Any agency, body, commission, or legal representative of the United States charged
11 with the administration of the United States tax laws for the purpose of, and only to
12 the extent necessary in, the administration of such laws;
- 13 (4) Officers, employees, or legal representatives of the Department of Revenue, but only
14 to the extent necessary to carry out their official duties;
- 15 (5) Officers, employees, or legal representatives of any other state agency or department



1 or political subdivision of the state for a civil or criminal law enforcement activity,
2 if ~~the head of~~ the agency, department, or political subdivision desiring such
3 information has made a written request to the secretary specifying the particular
4 information desired and the law enforcement activity for which the information is
5 sought;

6 (6) Officers, employees, or legal representatives of the commission on gaming and the
7 lottery commission for the purpose of, and only to the extent necessary for, the
8 administration of chapters 42-7A and 42-7B.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

983T0323

SENATE APPROPRIATIONS ENGROSSED NO. **SB 25** - 2/2/2012

Introduced by: The Committee on Education at the request of the Department of Education

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a new state accountability
2 system and a new financial accountability rating system for public elementary and secondary
3 schools.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 13-3-62 be amended to read as follows:

6 13-3-62. A single, statewide state accountability system is established. The system shall hold
7 public schools ~~and public school districts~~ accountable for the academic achievement of their
8 students and shall ensure that all public schools ~~and all public school districts~~ make adequate
9 yearly progress in continuously and substantially improving the academic achievement of their
10 students.

11 Section 2. That § 13-3-63 be amended to read as follows:

12 13-3-63. The state accountability system shall be based on the South Dakota Content
13 Standards in reading and mathematics approved by the South Dakota Board of Education. The
14 yearly progress of students shall be measured by the state academic assessments as may be
15 prescribed by the Legislature, and shall take into account the achievement of all public



1 elementary school and secondary school students in reading and mathematics annually. ~~An~~
2 ~~additional academic indicator~~ Additional indicators established pursuant to § 13-3-69 shall be
3 used in the measurement of yearly progress: ~~the additional academic indicator for the public K-8~~
4 ~~elementary schools shall be the annual rate of student attendance; the additional academic~~
5 ~~indicator for public 9-12 high schools shall be the annual rate of graduation.~~

6 Section 3. That § 13-3-64 be amended to read as follows:

7 13-3-64. The state accountability system shall ~~establish a timeline for adequate yearly~~
8 ~~progress that ensures that no later than the 2013-2014 school year, measure whether~~ all students
9 meet or exceed the state's proficient level of academic achievement ~~as measured by the state's~~
10 ~~assessments. Annual measurable objectives in both reading and mathematics. Multiple~~
11 indicators shall be established to ~~ensure~~ indicate continuous and substantial academic
12 improvement of the achievement of all public school students as well as sub-groups of public
13 school students, including economically disadvantaged students, students from major racial and
14 ethnic groups, students with disabilities, and students with limited English proficiency. ~~The~~
15 ~~annual measurable objectives shall identify a single minimum percentage of students who are~~
16 ~~required to meet or exceed the proficient level on the academic assessments. The objectives~~
17 ~~shall be applied separately in reading and mathematics and shall be applied to all students and~~
18 ~~to each sub-group of students described in this section. The annual measurable objectives shall~~
19 ~~be used for determining adequate yearly progress.~~

20 Section 4. That § 13-3-65 be amended to read as follows:

21 13-3-65. The state accountability system shall determine annually the progress of each
22 public school ~~and public school district~~, including the annual progress of sub-groups of students,
23 using annual assessment data and data from ~~one~~ additional academic indicator. ~~The school's~~
24 ~~progress in mathematics and reading shall be compared separately to the state's annual~~

~~objectives for adequate yearly progress in mathematics and reading. The results of the comparisons shall be used to determine the school's achievement level based on the state's achievement standards. The district's progress in mathematics and reading shall be compared separately to the state's annual objectives in mathematics and reading. The results of the comparisons shall be used to determine the district's achievement levels based on the state's achievement standards~~ indicators.

Section 5. That § 13-3-67 be amended to read as follows:

13-3-67. The state accountability system shall include ~~consequences~~ interventions for schools ~~and districts~~ in the form of sanctions, rewards, and recognition. The ~~consequences~~ interventions shall be based on the school's ~~or district's~~ ranking on the state's achievement standards and additional indicators.

Section 6. That § 13-3-69 be amended to read as follows:

13-3-69. The South Dakota Board of Education may promulgate administrative rules pursuant to chapter 1-26 to establish the state accountability system; based on achievement and other indicators including:

- (1) A definition of ~~adequate yearly~~ academic progress;
- (2) ~~A valid and reliable~~ The method of calculating ~~adequate~~ yearly progress in mathematics and reading for all public schools ~~and public school districts~~, including methods for determining both the status and improvement growth;
- (3) A definition of four levels of student achievement, including a proficient level;
- (4) ~~Establishment of names and descriptors for the four levels of student achievement;~~
- ~~(5)~~ Determination of cut scores ~~within the scoring data from the state assessments in~~ mathematics and reading for each ~~of the four levels~~ level of student achievement;
- ~~(6)(5)~~ Establishment of the ~~state's annual~~ measurable objectives for academic progress

1 through 2013-2014 in both reading and mathematics;

2 ~~(7)(6)~~ Establishment of a system of consequences for public schools, including sanctions,
3 rewards, and recognition;

4 ~~(8)(7)~~ Establishment of a system of consequences for public school districts, including
5 sanctions, rewards, and recognition the process for teacher and principal evaluation;

6 ~~(9)(8)~~ Determination of a valid and reliable method for calculating a graduation rate the
7 criteria to demonstrate student preparedness for college and career for each public
8 high school;

9 ~~(10)(9)~~ Determination of a valid and reliable the method for calculating the attendance
10 rate for each public elementary and middle school;

11 ~~(11)(10)~~ Establishment of an appeal process for public schools ~~and public school~~
12 ~~districts; and~~ districts; and

13 ~~(12)(11)~~ Establishment of a process whereby the state accountability system will be
14 periodically reviewed ~~to assure that it is fair and appropriate for the public~~
15 ~~schools of South Dakota, and is in compliance with federal law; and~~

16 ~~— (13) — Any other administrative rule that is deemed necessary to fulfill the requirements of~~
17 ~~the federal education act, Public Law No. 107-110, § 1111(b)(2)(A), 115 Stat. 1425,~~
18 ~~as in effect on January 1, 2003.~~

19 Section 7. Beginning in the 2014-2015 school year, the Department of Education shall
20 develop and implement a financial accountability rating system for public school districts that
21 distinguishes among school districts based on levels of financial performance and includes
22 procedures to provide additional transparency to public education finance to enable the
23 Department of Education and school administrators to provide meaningful financial oversight
24 and improvement. The system shall include uniform indicators that measure school districts'

1 financial management performance.

2 Section 8. Beginning in the 2014-2015 school year, the Department of Education shall
3 identify school districts that demonstrate high academic achievement and cost-effective
4 operations. In identifying school districts, the department shall:

- 5 (1) Integrate existing academic accountability and financial data; and
6 (2) Rank the results of the calculation in subdivision (1) to identify the relative
7 performance of school districts.

8 Section 9. Beginning on July 1, 2012, a work group shall provide input in developing the
9 financial accountability rating system described in sections 8 and 9 of this Act. The work group
10 shall consist of the following members:

- 11 (1) Five school district business managers appointed by the secretary of education;
12 (2) Three school superintendents appointed by the secretary of education;
13 (3) Three representatives of the business community with a knowledge of school finance
14 appointed by the secretary of education;
15 (4) One representative of the School Administrators of South Dakota appointed by the
16 secretary of education;
17 (5) One representative of the Associated School Boards of South Dakota appointed by
18 the secretary of education;
19 (6) One member of the Senate appointed by the president pro tempore of the Senate; and
20 (7) One member of the House of Representatives appointed by the speaker of the House
21 of Representatives.

22 Section 10. The Board of Education shall promulgate rules pursuant to chapter 1-26 to
23 provide for the implementation and administration of the financial accountability rating system
24 established pursuant to section 7 of this Act.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0427

HOUSE JUDICIARY ENGROSSED NO. **SB 42** - 2/15/2012

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding habeas corpus and
2 to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 21-27-3.1 be amended to read as follows:

5 21-27-3.1. ~~An application for relief~~ Proceedings under this chapter ~~may be filed at any time~~
6 ~~except that proceedings thereunder~~ cannot be maintained while an appeal from the applicant's
7 conviction and sentence is pending or during the time within which such appeal may be
8 perfected.

9 Section 2. That § 21-27-3.2 be repealed.

10 ~~—21-27-3.2. An application under this chapter may be dismissed if it appears that the state or~~
11 ~~the applicant's custodian has been prejudiced in its ability to respond to the application by delay~~
12 ~~in its filing, unless the applicant shows that the application is based on grounds of which he~~
13 ~~could not have had knowledge by the exercise of reasonable diligence before the circumstances~~
14 ~~causing the prejudice occurred. It shall be presumed that the state or the applicant's custodian~~



1 ~~has been prejudiced if the application is filed more than five years after signing, attestation and~~
2 ~~filing of the judgment or order under which the applicant is held. This presumption is rebuttable~~
3 ~~pursuant to § 19-11-1.~~

4 Section 3. That chapter 21-27 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A two-year statute of limitation applies to all applications for relief under this chapter. This
7 limitation period shall run from the latest of:

- 8 (1) The date on which the judgment became final by the conclusion of direct review or
9 the expiration of the time for seeking such review;
- 10 (2) The date on which the impediment to filing an application created by state action in
11 violation of the constitution or laws of the United States or of this state is removed,
12 if such impediment prevented the applicant from filing;
- 13 (3) The date on which the constitutional right asserted in the application was initially
14 recognized by the Supreme Court of the United States or the Supreme Court of this
15 state if the right has both been newly recognized and is retroactively applicable to
16 cases on collateral review; or
- 17 (4) The date on which the factual predicate of the claim or claims presented could have
18 been discovered through the exercise of due diligence.

19 Section 4. That § 21-27-4 be amended to read as follows:

20 21-27-4. If a person has been committed, detained, imprisoned, or restrained of his liberty,
21 under any color or pretense whatever, civil or criminal, and if upon application made in good
22 faith to the court or judge thereof, having jurisdiction, for a writ of habeas corpus, it is
23 satisfactorily shown that the person is without means to prosecute the proceeding, the court or
24 judge shall, if the judge finds that such appointment is necessary to ensure a full, fair, and

1 impartial proceeding, appoint counsel for the indigent person pursuant to chapter 23A-40. Such
2 counsel fees or expenses shall be a charge against and be paid by the county from which the
3 person was committed, or for which the person is held as determined by the court. Payment of
4 all such fees or expenses shall be made only upon written order of the court or judge issuing the
5 writ. The ineffectiveness or incompetence of counsel, whether retained or appointed, during any
6 collateral post-conviction proceeding is not grounds for relief under this chapter.

7 Section 5. That chapter 21-27 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 A claim presented in a second or subsequent habeas corpus application under this chapter
10 that was presented in a prior application under this chapter or otherwise to the courts of this state
11 by the same applicant shall be dismissed.

12 Before a second or subsequent application for a writ of habeas corpus may be filed, the
13 applicant shall move in the circuit court of appropriate jurisdiction for an order authorizing the
14 applicant to file the application.

15 The assigned judge shall enter an order denying leave to file a second or successive
16 application for a writ of habeas corpus unless:

17 (1) The applicant identifies newly discovered evidence that, if proven and viewed in light
18 of the evidence as a whole, would be sufficient to establish by clear and convincing
19 evidence that no reasonable fact finder would have found the applicant guilty of the
20 underlying offense; or

21 (2) The application raises a new rule of constitutional law, made retroactive to cases on
22 collateral review by the United States Supreme Court and the South Dakota Supreme
23 Court, that was previously unavailable. The grant or denial of an authorization by the
24 circuit court to file a second or subsequent application shall not be appealable.

1 Section 6. That § 21-27-16.1 be repealed.

2 ~~21-27-16.1. All grounds for relief available to a petitioner under this chapter shall be raised~~
3 ~~in his original, supplemental or amended application. Any ground not raised, finally adjudicated~~
4 ~~or knowingly and understandingly waived in the proceedings resulting in his conviction or~~
5 ~~sentence or in any other proceeding that the applicant has taken to secure relief from his~~
6 ~~conviction, or sentence, may not be the basis for a subsequent application, unless the court finds~~
7 ~~grounds for relief asserted which for reasonable cause were omitted or inadequately raised in~~
8 ~~the original, supplemental, or amended application.~~

9 Section 7. Whereas, this Act is necessary for the immediate preservation of the public
10 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full
11 force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

591T0171

SENATE ENGROSSED NO. **SB 58** - 1/23/2012

Introduced by: Senators Schlekeway, Bradford, Buhl, Frerichs, Gray, Haverly, Heineman, Holien, Hunhoff (Jean), Juhnke, Novstrup (Al), Olson (Russell), Peters, Rampelberg, and Rhoden and Representatives Kirkeby, Abdallah, Boomgarden, Deelstra, Fargen, Hansen (Jon), Hickey, Hoffman, Kopp, Lucas, Lust, Olson (Betty), Rausch, Sly, Tulson, Turbiville, Verchio, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning elections conducted
2 at voting centers and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 12-14 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding any other provision of law, any jurisdiction may conduct an election using
7 vote centers pursuant to the provisions of this section. The election shall be conducted in
8 conformance with all applicable election laws and rules with the following exceptions:

9 (1) The jurisdiction may use vote centers that allow the voters in the jurisdiction to vote
10 at any one of the vote centers in lieu of establishing precincts and wards for the
11 election;

12 (2) Any person who is registered to vote and living in the jurisdiction may be appointed
13 as a polling place superintendent or deputy to any of the vote centers;



(3) Secure, encrypted electronic pollbooks shall be used in lieu of paper registration books;

(4) The secretary of state shall prescribe the form of the ballot to be used at vote centers until the State Board of Elections promulgates rules pursuant to subdivision 12-1-9(2);

(5) The entire jurisdiction is designated as one voting precinct for this election; and

(6) The jurisdiction shall submit a plan for approval to the secretary of state. The Board of Elections shall promulgate rules pursuant to chapter 1-26 concerning the plan by July 1, 2013.

Section 2. That § 12-15-1 be amended to read as follows:

12-15-1. The county auditor shall, not less than twenty days before any election, appoint a precinct superintendent and two precinct deputies who shall constitute the precinct election board and a precinct superintendent and two precinct deputies of the counting board if the board is appointed pursuant to § 12-15-14 or 12-15-14.1 for each of the voting precincts or vote centers of the county. ~~Two or four additional~~ Additional precinct deputies may be appointed in increments of two. The county auditor shall make the appointments from lists of names submitted by the county central committee of each party. If the county auditor fails to receive the list at least forty-five days prior to an election, the county auditor shall make the appointments.

Section 3. That § 12-4-10 be amended to read as follows:

12-4-10. The county auditor shall provide from the master registration file, in paper or electronic format, a separate list of the names and addresses of all registered voters in each voting precinct as established pursuant to chapter 12-14, § 9-13-16, or 13-7-11 in the county, which shall be known as the precinct registration list. The list for any voting precinct shall be

1 designed so that each name can be distinctly marked whenever the registrant presents himself
2 or herself for voting and shall contain a space in which may be recorded the record of any
3 challenge, affidavit, or other information as may be required. Each entry shall be made by the
4 precinct superintendent or precinct deputies when the voter presents himself or herself for
5 voting.

6 Section 4. That § 12-1-3 be amended to read as follows:

7 12-1-3. Terms used in this title mean:

8 (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the
9 ballot to be voted upon for nomination or election at any election;

10 (2) "Election," any election held under the laws of this state;

11 (3) "Election officials," state and local officials charged with the duty of conducting
12 elections and the canvass of returns;

13 (4) "Elector," a person qualified to register as a voter, whether or not the person is
14 registered;

15 (4A) "Electronic pollbook," an electronic system containing both the registration list and
16 pollbook;

17 (5) "General election," the vote required to be taken in each voting precinct of the state
18 on the first Tuesday after the first Monday in November of each even-numbered year;

19 (6) "Party office," an office of a political party organization as distinct from a public
20 office;

21 (7) "Person in charge of an election," or "person charged with the conduct of an
22 election," the county auditor in all cases except local elections for a municipality,
23 school district, township, or other political subdivision, in which case it is the officer
24 having the position comparable to the auditor in that unit of government if not

1 specifically designated by law;

2 (8) "Petition," a form prescribed by the State Board of Elections, which contains the
3 question or candidacy being petitioned, the declaration of candidacy if required and
4 the verification of the circulator. If multiple sheets of paper are necessary to obtain
5 the required number of signatures, each sheet shall be self-contained and separately
6 verified by the circulator;

7 (9) "Petition circulator," a resident of the State of South Dakota who is at least eighteen
8 years of age who circulates nominating petitions or other petitions for the purpose of
9 placing candidates or issues on any election ballot;

10 (10) "Political party," a party whose candidate for Governor at the last preceding general
11 election at which a Governor was elected received at least two and one-half percent
12 of the total votes cast for Governor;

13 (10A) "Pollbook" or "poll list," a list containing in numerical order the names of all persons
14 voting at the election and type of ballot voted;

15 ~~(10.1)~~ (10B) "Polling place," a designated place voters may go to vote;

16 (11) "Primary" or "primary election," an election held at which candidates are nominated
17 for public office;

18 (12) "Public office," an elected position in government;

19 (12A) "Registration list," a list of eligible voters;

20 (13) "Registered mail," does not include certified mail;

21 (14) "Registration officials," the county auditor and deputies and other persons authorized
22 to assist in registration pursuant to chapter 12-4;

23 (14A) "Vote center," a polling place when the precinct has been defined as the entire
24 jurisdiction and an electronic pollbook is utilized;

1 (15) "Voter," a person duly registered to vote or one who is performing the act of voting.
2 Section 5. Whereas, this Act is necessary for the support of the state government and its
3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
4 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

159T0288

SENATE ENGROSSED NO. **SB 62** - 1/26/2012

Introduced by: Senators Gray, Lederman, Maher, Nelson (Tom), Nygaard, and Rave and
Representatives Solum, Greenfield, Hawley, and Rozum

1 FOR AN ACT ENTITLED, An Act to allow certain alcoholic beverage licensees to charge a
2 corkage fee for serving wine supplied by customers and to allow customers to remove a
3 partially consumed bottle of wine from certain alcoholic beverage licensees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-1 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Notwithstanding the provisions of § 35-1-5.6, a licensee that is licensed to sell wine on-sale
8 may permit a customer to bring a sealed and unopened bottle of wine onto the licensed premises
9 for consumption by the customer while eating a meal that was prepared by the licensee and that
10 was served at a table on the licensed premises. The licensee may charge a corkage fee for
11 serving wine supplied by a customer. The customer may carry out the unconsumed portion of
12 the bottle of wine if it is securely resealed by the licensee with a cork or other similar cap and
13 placed in a sealed bag or other container. The licensee shall also attach the receipt for the meal
14 and any corkage fee to the bag or container. A bottle of wine that is recorked and sealed as
15 provided in this section is not a violation of the provisions of § 35-1-9.1 if the cork and the seal



1 have not been disturbed.

2 Section 2. That chapter 35-1 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 A licensee that is licensed to sell wine on-sale may permit a customer to carry out the
5 unconsumed portion of a bottle of wine if the customer purchased the bottle of wine from the
6 licensee and consumed a portion of it with a meal that was prepared and served by the licensee
7 at a table on the licensed premises. The licensee shall securely reseal the bottle of wine with a
8 cork or other similar cap and place the bottle in a sealed bag or other container. The licensee
9 shall also attach a receipt for the meal and the wine to the bag or container. A bottle of wine that
10 is recorked and sealed as provided in this section is not a violation of the provisions of § 35-1-
11 9.1 if the cork and the seal have not been disturbed.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

914T0402

SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 65** - 1/26/2012

Introduced by: Senators Rampelberg, Cutler, Hundstad, Johnston, Krebs, Lederman, Novstrup (Al), Olson (Russell), and Tieszen and Representatives Hunt, Abdallah, Dennert, Lust, Turbiville, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise the list of products offered to consumers by motor
2 vehicle dealers and sales finance companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3A-5 be amended to read as follows:

5 54-3A-5. In addition to the finance charge, a creditor may contract for, and receive the
6 following additional charges in connection with an installment sales contract if such charges are
7 itemized and disclosed to the buyer:

8 (1) Official fees and taxes;

9 (2) Charges for guaranteed asset protection waivers, or credit life, accident, health, loss
10 of income, property, or liability insurance. However any insurance is optional, and
11 the consumer shall be informed, in writing, that any insurance is optional; and

12 (3) Charges for debt cancellation contracts and debt suspension contracts, as defined in
13 § 51A-1-2 and sections 2 and 3 of this Act, if the debt cancellation contract or debt
14 suspension contract is a contract of a depository institution or a licensee pursuant to



1 chapter 54-4 authorized to provide such coverage, and the contract is sold directly by
2 the authorized depository institution or licensee pursuant to chapter 54-4, or by a
3 retailer acting as an agent for the authorized depository institution or licensee
4 pursuant to chapter 54-4. However, any debt cancellation contract or debt suspension
5 contract is optional, and the consumer shall be informed, in writing, that any such
6 contract is optional.

7 Any such charges ~~must~~ shall be disclosed and explained to the consumer prior to signing any
8 agreement to repay a consumer credit obligation. Any such charges ~~must~~ shall be separately
9 agreed to in writing and separately signed by the consumer.

10 Section 2. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For the purposes of this chapter, the term, debt cancellation contract, means a term of an
13 extension of credit or contractual arrangement modifying terms of an extension of credit under
14 which a licensee agrees to cancel all or part of a customer's obligation to repay an extension of
15 credit from the licensee upon the occurrence of a specified event. The contract may be separate
16 from or a part of other extension of credit documents. The term does not include installment
17 payment deferral arrangements in which the triggering event is the customer's unilateral election
18 to defer repayment, or the licensee's unilateral decision to allow a deferral of repayment.

19 Section 3. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 For the purposes of this chapter, the term, debt suspension contract, means a term of an
22 extension of credit or contractual arrangement modifying terms of an extension of credit under
23 which a licensee agrees to suspend all or part of a customer's obligation to repay an extension
24 of credit from the licensee upon the occurrence of a specified event. The contract may be

1 separate from or a part of other extension of credit documents. The term does not include
2 installment payment deferral arrangements in which the triggering event is the customer's
3 unilateral election to defer repayment, or the licensee's unilateral decision to allow a deferral of
4 repayment.

5 Section 4. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A licensee pursuant to this chapter may enter into debt cancellation contracts and debt
8 suspension contracts and charge a fee for those contracts in connection with any extension of
9 credit that it makes, purchases, or of which it accepts assignment.

10 Section 5. That § 58-1-3 be amended to read as follows:

11 58-1-3. No provision of this title applies with respect to:

- 12 (1) Fraternal benefit societies, except as stated in chapter 58-37A;
- 13 (2) Bail bondsmen, other than corporate sureties and their agents, except as stated in
14 chapter 58-22;
- 15 (3) Motor vehicle service contracts which are contracts or agreements to perform or
16 indemnify for a specific duration the repair, replacement, or maintenance of motor
17 vehicles for operational or structural failure due to a defect in materials,
18 workmanship, or normal wear and tear, with or without additional provisions for
19 incidental payment of indemnity under limited circumstances, including towing,
20 rental, and emergency road service. Consideration for a motor vehicle service
21 contract shall be stated separately from the price of the motor vehicle;
- 22 (4) Service agreements or extended warranty plans for which the primary purpose is to
23 provide service, repair, or replacement on consumer goods or products including
24 appliances, merchandise, or equipment, or mechanical/electrical systems in single or

multiple-family dwellings. Incidental indemnity payments under such plans where service, repair, or replacement is not feasible or economical does not void this exemption;

(5) Any person, trust, or other entity proven to be under the exclusive regulatory authority of the federal government or another state agency;

(6) Any agreement to provide liability protection entered into pursuant to chapter 1-24 is exempt from the regulatory requirements of Title 58, except to forms of insurance coverage provided by an insurer otherwise subject to the insurance laws of this state;

(7) Any church plan, as defined in section 414(e) of the Internal Revenue Code of 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S. C. § 1002(33)(C)(i)); or any church benefits board, as described in section 414(e)(3)(A) of the Internal Revenue Code of 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i));

(8) Any debt cancellation contract or debt suspension contract as defined by subdivisions 51A-1-2(10) and 51A-1-2(11) and sections 2 and 3 of this Act; or

(9) Any damage guarantee program for renters administered by a nonprofit corporation that is recognized as an exempt organization under § 501(c)(3) of the Internal Revenue Code and whose mission is to increase the availability of affordable housing to low and moderate income tenants.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

491T0656

SENATE TRANSPORTATION

ENGROSSED NO. **SB 81** - 2/6/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Brown and Haverly and Representatives Cronin, Gosch, Hansen (Jon), and Hawley

1 FOR AN ACT ENTITLED, An Act to provide for a special license plate for certain persons on
2 active duty in the military.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-5-109.4 be amended to read as follows:

5 32-5-109.4. An owner of a motor vehicle, who is a resident of this state, who has a valid
6 South Dakota driver's license, and who signs an affidavit attesting to the fact that he or she is
7 an honorably discharged veteran having served on active duty in the armed forces of the United
8 States or who is currently serving on active duty in the armed forces of the United States, may
9 apply to the secretary to receive a set of special motor vehicle license plates designating the
10 person as a veteran or active duty member. If an owner of a motor vehicle falsely attests that he
11 or she is an honorably discharged veteran having served on active duty in the armed forces of
12 the United States or is currently serving on active duty in the armed forces of the United States,
13 the owner is guilty of a Class 2 misdemeanor. The plate may allow for additional indication of
14 the conflict, rank, or status of the veteran or active duty member. The special plates shall be



1 displayed as set forth in § 32-5-98. The special license plate shall be reflectorized and validated
2 each year with a sticker in the same manner as a noncommercial license plate. In addition to the
3 noncommercial license plate fees an additional fee of ten dollars shall be charged for the initial
4 issuance of the special license plates. ~~However, no additional fee may be charged for the~~
5 ~~renewal stickers placed on the special license plates.~~ If it is determined that the veteran or active
6 duty member owner does not qualify for the special plates or if the veteran or active duty
7 member owner dies, the plates shall be surrendered to the county treasurer of the applicant's
8 residence. However, if the veteran or active duty member owner dies, the special plates may be
9 retained by the veteran or active duty member owner's family, but may not be displayed on the
10 vehicle beyond the expiration of the plates or renewal stickers. The treasurer shall notify the
11 secretary who shall make the necessary changes in the registration file. Failure to surrender the
12 special license plates as required by this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

561T0630

SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 99** - 2/2/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Hansen (Tom), Bradford, and Johnston and Representatives White and Gibson

1 FOR AN ACT ENTITLED, An Act to prohibit certain licensees or employees of a licensed
2 establishment who have been charged with certain felony offenses from entering the
3 licensed premises and to provide a penalty therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any licensee or employee of a licensee who is charged with a felony offense involving a
8 minor, a crime of violence pursuant to subdivision 22-1-2(9), or a felony drug-related offense
9 on the licensed premises is prohibited from entering onto the licensed premises until the charges
10 have been fully adjudicated. A violation of this section is a class 1 misdemeanor.



State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

723T0516

SENATE TAXATION ENGROSSED NO. **SB 100** - 2/1/2012

Introduced by: Senators Hansen (Tom), Begalka, Brown, Cutler, Frerichs, Fryslie, Gray, Hundstad, Hunhoff (Jean), Johnston, Krebs, Lederman, Maher, Novstrup (Al), Nygaard, Olson (Russell), Putnam, Rampelberg, Rave, Rhoden, Schlekeway, Sutton, Tidemann, and Vehle and Representatives White, Abdallah, Boomgarden, Brunner, Cronin, Dennert, Fargen, Gosch, Hoffman, Hunhoff (Bernie), Kirkeby, Kirschman, Kloucek, Magstadt, Munsterman, Novstrup (David), Rausch, Schaefer, Sigdestad, Solum, Street, Vanneman, and Wick

1 FOR AN ACT ENTITLED, An Act to modify the ethanol production incentive payment to
2 include qualified producers of biobutanol.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Biobutanol," butyl alcohol produced from cereal grains;

7 Section 2. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read
8 as follows:

9 "Qualified biobutanol producer," any person who engages in the business of producing
10 biobutanol for sale, use, or distribution and who produced qualified ethyl alcohol on or before
11 December 31, 2006, and is therefore eligible for receiving incentive payments for the production



1 of ethyl alcohol under § 10-47B-162;

2 Section 3. That § 10-47B-162 be amended to read as follows:

3 10-47B-162. A production incentive payment of twenty cents per gallon is available to
4 ethanol producers for ethyl alcohol which is fully distilled and produced in South Dakota and
5 to qualified biobutanol producers for biobutanol fully produced in South Dakota. To be eligible
6 for this payment, the ethyl alcohol shall be denatured and subsequently blended with gasoline
7 to create ethanol blend. The ethyl alcohol shall be ninety-nine percent pure and shall be distilled
8 from cereal grains. Annual production incentive payments for any facility may not exceed one
9 million dollars. An ethanol production facility is eligible for a production incentive payment
10 under this section only if the facility has produced qualifying ethyl alcohol on or before
11 December 31, 2006. No facility may receive any production incentive payments in an amount
12 greater than nine million six hundred eighty-two thousand dollars. The cumulative annual
13 production incentive payments made under this section may not exceed four million dollars for
14 fiscal year 2003, five million dollars for fiscal year 2004, six million dollars for fiscal year 2005,
15 seven million dollars for fiscal year 2006, seven million dollars for fiscal year 2007, seven
16 million dollars for fiscal year 2008, seven million dollars for fiscal year 2009, seven million
17 dollars for fiscal year 2010, seven million dollars for fiscal year 2011, four million dollars for
18 fiscal year 2012, four million dollars for fiscal year 2013, four million five hundred thousand
19 dollars for fiscal year 2014, four million five hundred thousand dollars for fiscal year 2015, four
20 million five hundred thousand dollars for fiscal year 2016, and seven million dollars per fiscal
21 year thereafter. Payments from the ethanol fuel fund shall be prorated equally to all of the
22 facilities each month based on claims submitted for that month and the amount of funds
23 available for that month. No facility may receive payment for more than four hundred sixteen
24 thousand six hundred sixty-seven gallons per month. If excess funds are available in the fund

1 in any given month, payment may be made to facilities for previous months when funds were
2 not sufficient to pay the claims from the previous months. All moneys available in the ethanol
3 fuel fund at the end of the fiscal year shall be prorated equally to the facilities based upon all
4 unpaid claims received through the end of that fiscal year.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

708T0261

SENATE TAXATION ENGROSSED NO. **SB 111** - 2/1/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Nelson (Tom), Juhnke, and Lederman and Representatives Romkema, Abdallah, Kirkeby, Rozum, Russell, and Stricherz

- 1 FOR AN ACT ENTITLED, An Act to revise the mining permit fees.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. That § 45-6B-14 be amended to read as follows:
- 4 45-6B-14. The application fee of one thousand dollars shall accompany the application.
- 5 However, the application fee shall be fifty thousand dollars for a new large scale precious metal,
- 6 coal, or uranium mine permit. The application fee for an amendment to an existing large scale
- 7 precious metal, coal, or uranium mine permit shall be five thousand dollars.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

365T0301

SENATE ENGROSSED NO. **SB 113** - 2/9/2012

Introduced by: Senators Nelson (Tom), Lederman, Peters, Putnam, and Tieszen and
Representatives Cronin, Abdallah, Kirkeby, Rozum, Solum, Turbiville, and
Verchio

1 FOR AN ACT ENTITLED, An Act to provide for special motor vehicle license plates for
2 recipients of the silver star medal, distinguished service cross, navy cross, air force cross,
3 distinguished flying cross, bronze star medal with valor device, or the bronze star medal.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any resident owner of a motor vehicle who has received the silver star medal, distinguished
8 service cross, navy cross, air force cross, or distinguished flying cross and has a valid South
9 Dakota driver license may apply to the secretary to receive special license plates which honor
10 the person as a recipient of the silver star medal, distinguished service cross, navy cross, air
11 force cross, or distinguished flying cross. Each application shall be on a form prescribed by the
12 secretary and shall include the certification from the Department of Veterans Affairs. The
13 special plates shall be numbered and contain a symbol to be determined by the secretary
14 indicating that the owner is a recipient of the silver star medal, distinguished service cross, navy



1 cross, air force cross, or distinguished flying cross. The special plates shall be displayed as set
2 forth in § 32-5-98. The special license plate shall be reflectorized and validated each year with
3 a sticker in the same manner as a noncommercial license plate. In addition to the noncommercial
4 license plate fees, an additional fee of ten dollars shall be charged for the initial issuance of the
5 special license plates. If it is determined that the owner does not qualify for the special plates,
6 the plates shall be surrendered to the county treasurer of the applicant's residence. The treasurer
7 shall notify the secretary who shall make the necessary changes in the registration file. The
8 special plates may be retained by the owner's family upon the owner's death, but may not be
9 displayed on the vehicle beyond the expiration of the plates or renewal stickers. Failure to
10 surrender the special license plates as required by this section is a Class 2 misdemeanor.

11 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any resident owner of a motor vehicle who has received the bronze star medal with valor
14 device or the bronze star medal and has a valid South Dakota driver license may apply to the
15 secretary to receive special license plates which honor the person as a recipient of the bronze
16 star medal. Each application shall be on a form prescribed by the secretary and shall include the
17 certification from the Department of Veterans Affairs. The special plates shall be numbered and
18 contain a symbol to be determined by the secretary indicating that the owner is a recipient of the
19 bronze star medal with valor device or the bronze star medal. The special plates shall be
20 displayed as set forth in § 32-5-98. The special license plate shall be reflectorized and validated
21 each year with a sticker in the same manner as a noncommercial license plate. In addition to the
22 noncommercial license plate fees, an additional fee of ten dollars shall be charged for the initial
23 issuance of the special license plates. If it is determined that the owner does not qualify for the
24 special plates, the plates shall be surrendered to the county treasurer of the applicant's residence.

1 The treasurer shall notify the secretary who shall make the necessary changes in the registration
2 file. The special plates may be retained by the owner's family upon the owner's death, but may
3 not be displayed on the vehicle beyond the expiration of the plates or renewal stickers. Failure
4 to surrender the special license plates as required by this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

777T0692

SENATE EDUCATION ENGROSSED NO. **SB 127** - 2/2/2012

Introduced by: Senators Brown, Haverly, Novstrup (Al), Peters, and Tidemann and
Representatives Cronin and Wink

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding educational data
2 reporting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-3-51 be amended to read as follows:

5 13-3-51. The secretary of the Department of Education shall establish a uniform system for
6 the gathering and reporting of educational data for the keeping of adequate educational and
7 financial records and for the evaluation of educational progress. Any school district or school
8 seeking state accreditation shall submit enrollment data, personnel data, and verify all state and
9 federal standards for accreditation and approval of schools, including those related to safety and
10 educational equity of the school district or school by October fifteenth of each year. Any school
11 district with an average daily membership as defined in § 13-13-10.1 of greater than five
12 thousand in the previous school fiscal year has an additional seven days to submit the required
13 data. If the due date falls on a weekend or state holiday, the due date is the next business day
14 following the scheduled due date. Any public school district shall also submit to a survey



1 regarding the district's budget, programs, workforce, or other related data by October fifteenth
2 of each year, if required by the South Dakota Department of Education. An annual written
3 evaluation of the educational progress in the state and in each school district shall be submitted
4 to the Legislature and made available in each school district to the general public. The South
5 Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to further define the
6 data required pursuant to this section.